

**IN THE MATTER OF the *Public Utilities Act*
Revised Statutes of Yukon, 2002, c.186, as amended**

and

**Review of Yukon Utilities Board Order 2014-06 and
Appendix A – Reasons for Decision**

BEFORE: B. McLennan, Chair) March 1, 2015
 R. Laking, Vice-Chair)
 A. Fortin)
 M. Hannam)

BOARD ORDER 2015-02

WHEREAS:

- A. Pursuant to section 62 of the *Public Utilities Act* and section 31 of the Yukon Utilities Board *Rules of Practice*, on October 27, 2014, the Yukon Electrical Company Limited (YECL) filed with the Yukon Utilities Board (Board) an Application for Review and Variance (review application) regarding Board Order 2014-06 and Appendix A, Reasons for Decision, dated April 23, 2014 (Board Order). In its review application, YECL is requesting that the Board vacate its directions in the Board Order to (i) remove all project-related costs of the Watson Lake bi-fuel project from its proposed capital additions to rate base; (ii) reduce the cost of living adjustment (COLA) component of its defined benefit pension expense from 100 to 50 percent of Canadian Consumer Price Index (CPI) up to the three-percent maximum and to adjust its defined benefit pension funding requirement forecast accordingly; and (iii) vary the awarded rate of return on equity of 8.75% and the common equity ratio of 40%.
- B. In summary, the grounds on which the review application is based are as follows:
 - i. Regarding the Watson Lake bi-fuel project, YECL alleges that fundamental changes in circumstances or facts have occurred since the Board Order; and
 - ii. In relation to the directions on the COLA adjustment, the rate of return on equity, and the common equity ratio, YECL alleges that the Board committed errors of law or jurisdiction, or an error of fact.
- C. YECL submitted that it met the first stage of a review and the Board should review and vary Board Order 2014-06 as requested in the review application.

- D. On October 30, 2014, the Board issued a letter requesting comments from parties to the proceeding which resulted in Board Order 2014-06 and affording the applicant for review an opportunity to respond to any comments filed. Comments were received from the Utilities Consumers' Group (UCG) and Yukon Energy Corporation (YEC) opposing the review application. YECL replied to the comments from these parties.
- E. Section 31 of the Board's *Rules of Practice* states that the Board will use a two-phase system for applications for review. The first phase is the initial screening phase where the applicant must establish a *prima facie* case sufficient to warrant full consideration by the Board. In the case of an alleged error, in order to advance to the second phase of the process, the applicant for review must show that the claim of error is substantiated on a *prima facie* basis and the error has significant material implications.
- F. The Board has considered the application for a review and variance from YECL, and the submissions of the parties in light of the test set out in section 31 of the Board's *Rules of Practice*. The Board has decided that regarding the Watson Lake bi-fuel project, YECL has not shown on a *prima facie* basis that fundamental changes in circumstances or facts have occurred since the issuance of Board Order 2014-06. Further, the Board has decided that YECL has not shown on a *prima facie* basis that the Board committed errors of law or jurisdiction, or in fact, regarding its direction on the COLA adjustment, the rate of return on equity, and the common equity ratio. Therefore, the Board has determined that the review application will not advance to the second phase of the process.

NOW THEREFORE, for the reasons set out in the attached Appendix A, the Board denies the YECL application for the Board to review and vary Board Order 2014-06.

DATED at the City of Whitehorse, Yukon, the 1st day of March 2015.

BY ORDER



Bruce McLennan
Chair